

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

GLOCK, INC.,

Plaintiff,

v.

POLYMER80, INC.,

Defendant.

Case No. 3:23-CV-00086-MMD-CLB

**REPORT AND RECOMMENDATION OF  
U.S. MAGISTRATE JUDGE<sup>1</sup>**

Plaintiff Glock, Inc. ("Glock") commenced this action against Defendant Polymer80, Inc. ("Polymer80") on March 6, 2023. (ECF No. 1.) On May 3, 2023, Polymer80 filed an answer to Glock's complaint. (ECF No. 25.) On December 14, 2023, Polymer80's counsel, Adam R. Fulton and Tod R. Dubow, filed a motion to withdraw as counsel. (ECF No. 48.) On December 29, 2023, the Court granted Defense Counsel's motion to withdraw as counsel and ordered Polymer80 to file a substitution of counsel on or before Friday, January 26, 2024. (ECF No. 51.) The Court advised Polymer80 that corporations may only appear in federal court through an attorney. (See *id.* at 2 (citing *United States v. High Country Broadcasting Co., Inc.*, 3 F.3d 1244 (9th Cir. 1993); *Licht v. America West Airlines*, 40 F.3d 1058 (9th Cir. 1994).) Polymer80 failed to file a substitution of counsel, so the Court *sua sponte* granted Polymer80 an extension of time to February 13, 2024 to do so. (ECF No. 54.) The Court again advised Polymer80 that it may only appear in federal court through an attorney, and additionally advised Polymer80 that if substitute counsel had not entered an appearance by February 13, 2024, the Court would issue a Report and Recommendation that Polymer80's answer be stricken, and a default be entered. (*Id.*) To date, a substitution of counsel has not been filed.

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<sup>1</sup> This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4.

1 As discussed, Polymer80 was advised on numerous occasions that a corporation  
2 may only appear in federal court when represented by counsel. (See, e.g., ECF Nos. 51,  
3 54.) The law is clear in the Ninth Circuit to that effect. As the Court of Appeals held in *U.S.*  
4 *High Country Broadcasting Co., Inc.*, 3 F.2d at 1245: “[a] corporation may appear in  
5 federal court only through licensed counsel,” citing *Rowland v. California Men's Colony*,  
6 506 U.S. 194, 202 (1993) and 28 U.S.C. § 1654.

7 The language of the Ninth Circuit's decision in the *America West Airlines* case is  
8 also unequivocal, “Corporations and other unincorporated associations must appear in  
9 court through an attorney.” *In re America West Airlines*, 40 F.3d 1058, 1059 (9th Cir.  
10 1994). See also *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697–98 (9th Cir.  
11 1987); *Church of the New Testament v. United States*, 783 F.2d 771, 77–74 (9th Cir.  
12 1986).

13 There can be no dispute that a corporate entity may proceed in federal court only  
14 when represented by licensed counsel. A corporation simply may not proceed pro se.

15 Polymer80 has been repeatedly advised of its obligation to defend this action  
16 through licensed counsel. Due to the failure of Polymer80 to obtain substitute counsel,  
17 the Court recommends that Polymer80's answer, (ECF No. 25), be stricken and a default  
18 be entered against Polymer80 by reason of its failure to “otherwise defend” this action.  
19 Fed. R. Civ. P. 55(a).

20 The parties are advised:

21 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of  
22 Practice, the parties may file specific written objections to this Report and  
23 Recommendation within fourteen days of receipt. These objections should be entitled  
24 “Objections to Magistrate Judge's Report and Recommendation” and should be  
25 accompanied by points and authorities for consideration by the District Court.

26 2. This Report and Recommendation is not an appealable order and any  
27 notice of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the  
28 District Court's judgment.

**IT IS THEREFORE RECOMMENDED** that Polymer80's answer, (ECF No. 25), be **STRICKEN**.

**DATED:** February 15, 2024.

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